

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 3909 of 1989

For Approval and Signature:

Hon'ble MR.JUSTICE M.S.SHAH

- =====
1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO
 2. To be referred to the Reporter or not? : NO
 3. Whether Their Lordships wish to see the fair copy of the judgement? : NO
 4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO
 5. Whether it is to be circulated to the Civil Judge? :

PRAVINSINGH SHANKERSINGH RAJPUT

Versus

AHMEDABAD MUNICIPAL TRANSPORT SERVICE

Appearance:

MR VB GHARANIYA for Petitioner
MR BP TANNA for Respondent No. 1

CORAM : MR.JUSTICE M.S.SHAH

Date of decision: 10/03/2000

ORAL JUDGEMENT

This petition under Article 226 of the Constitution of India is filed by a Conductor in the employment of Ahmedabad Municipal Transport Service (AMTS) challenging the action of the

respondent-management in not continuing the petitioner on the post of Conductor.

2 The petitioner was employed by the respondent-management as a conductor in the year 1977. It is his case that on 30.5.1989 the flying squad of the respondent checked the bus in which the petitioner was serving as a conductor and that without giving the petitioner any opportunity of hearing and on the basis of the said incident the petitioner was prevented from discharging his duties from 30.5.1989 as per the say of the time keeper of the respondent-management. The petitioner therefore challenged the said action on the ground that no inquiry was held against the petitioner nor any procedure was followed before restraining the petitioner from discharging his duties as a conductor.

3 While admitting the petition on 4.7.1989 this Court had granted following ad interim relief :-

"Ad interim Relief in terms of para 9(D) subject to the clarification that it will be open to the respondent to proceed against the petitioner in accordance with law for the alleged misconduct dated 30th May 1989 when petitioner was on duty on Route No.122, Bus No.816 in first shift."

In para 9 (D) the petitioner had prayed for interim relief to direct the respondents to allow the petitioner to serve on the post of conductor in the respondent's office till the disposal of the petition. The ad interim relief granted earlier has continued to operate till today when the petition has reached the final hearing.

4 When the petition was called out for hearing today, Mr Nikhil Kerier for Mr B.P.Tanna for the respondent states that the petitioner was suspended from service from 31.5.1989 to 30.6.1989 whereafter he was reinstated on 1.7.1989. Thereafter on 25.7.1989 the petitioner's services were terminated against which he had filed an appeal. By resolution no.128 dated 25.5.1990 of the Transport Committee the petitioner was taken back in service on 5.6.1990 as a conductor as a fresh employee. However, those proceedings were in respect of another act of misconduct. As regards misconduct which the petitioner had committed on 30.5.1989, the papers of departmental enquiry were burnt on 22.7.1988 when the employees of the respondent had gone on strike and had caused damage to the property and record of the respondent. Hence, the papers regarding

the said misconduct are not traceable. Mr Kerier however further adds that the petitioner has recently been suspended from service on the ground that the petitioner had produced a bogus certificate for availing of benefits meant for T.B. patients and therefore the petitioner is under suspension from 24.1.2000.

5 In view of the above developments, it appears to the Court that the petition deserves to be disposed of with liberty granted to the respondent to proceed against the petitioner in accordance with law for whatever acts of misconduct which might be alleged against the petitioner.

6 The petition is accordingly disposed of subject to the aforesaid directions, Rule is discharged. Interim relief granted earlier stands vacated.

(mohd)